



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,418	09/25/2000	Joel I. Dulebohn	660336.90918	4039

7590 06/10/2003

Foley & Lardner  
Suite 3800  
777 East Wisconsin Avenue  
Milwaukee, WI 53202-5306

EXAMINER

KAM, CHIH MIN

ART UNIT	PAPER NUMBER
----------	--------------

1653

DATE MAILED: 06/10/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/669,418

Applicant(s)

DULEBOHN ET AL.

Examiner

Chih-Min Kam

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5,8-11 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-11 and 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1-5, 8-11 and 13-23 are pending.

Applicants' amendment filed on April 16, 2003 (Paper No. 14) is acknowledged, and applicant's response has been fully considered. Claims 1, 8-11 and 13 have been amended, and new claims 14-23 have been added. Therefore, claims 1-5, 8-11 and 13-23 are examined. The previous rejection of claims 8-11 and 13 under 35 USC § 112, second paragraph is withdrawn in view of applicants' amendment to the claims, and applicants' response at page 4 in Paper No. 14.

### **Objection Withdrawn**

2. The previous objection of claim 1 is withdrawn in view of applicants' amendment to the claims, and applicants' response at page 4 in Paper No. 14.

### **Rejection Withdrawn**

### ***Claim Rejections – 35 USC § 112***

3. The previous rejection of claims 8-11 and 13 under 35 USC § 112, second paragraph is withdrawn in view of applicants' amendment to the claims, and applicants' response at page 4 in Paper No. 14.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1653

4. Claims 1-5, 8-11 and 13-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5, 8-11 and 13-23 are indefinite because of the use of the term "mixtures thereof" or "combinations thereof". The claim recites a Markush group, where a closed language "consisting of" is used, however, the claim also cites "mixtures thereof" or "combinations thereof", which is an open language as to number of components and the amount of each component used in the composition. Claims 1 and 16 are also indefinite as to amount of each component in the antioxidation composition, which is not indicated in the claim, thus it is not clear what amount each component is included in the composition. Claims 2-5, 8-11, 13-15 and 17-23 are included in this rejection for being dependent on a rejected claim and not correcting the deficiency of the claim from which they depend.

5. Claim 2, for example recites the limitation "metal ion" in line 2. There is insufficient antecedent basis for this limitation in the claim, which cites metal oxide, e.g., CaO, MgO or ZnO. See also claims 3, 4, 5; and claims 14 and 15 for "magnesium ion" or "calcium ion".

### ***Conclusion***

6. No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (703) 308-9437. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, Ph. D. can be reached on (703) 308-2923. The fax phone numbers

Art Unit: 1653

for the organization where this application or proceeding is assigned are (703) 308-0294 for regular communications and (703) 308-4227 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Chih-Min Kam, Ph. D. *CMK*  
Patent Examiner

\*\*\*

June 6, 2003

*Christopher S. F. Low*  
CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1800